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## PURPOSE

The Student Association of George Brown College is committed to maintaining an organization that is a safe and positive space, where everyone is able to work, learn and express themselves in a safe environment that is free from sexual violence. This document sets out our policy and response protocol to sexual violence and ensures that those who experience sexual violence are believed and their rights respected, that the Student Association has a process of investigation that protects the rights of all individuals and holds those individuals who have committed an act of sexual violence accountable.

## SCOPE

This policy and procedure applies to everyone including: all employees, elected student leaders, students, contractors, suppliers of service, individuals who are directly connected to the college or any Student Association initiatives, volunteers, and visitors.

## DEFINITIONS

### **Sexual Assault and Sexual Violence**

**Sexual assault:** A criminal offence under the *Criminal Code* of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

**Sexual violence:** A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault.

**Sexual Harassment:** Sexual Harassment refers to one or a series of comments or behaviors related to gender, or of a sexual nature that is known or ought to reasonably be known to be unwelcome, unwanted, offensive, intimidating, hostile, or inappropriate

**(Reference: Prevention of Discrimination and Harassment Policy George Brown College <http://www.georgebrown.ca/diversity/>)**

**Consent:** The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.

- A person who is drugged is unable to consent.
- A person is usually unable to give consent when under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
- A person can withdraw consent at any time during the course of a sexual encounter.
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as, a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position.
- Consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is a minor as listed below.

**Note:** For information purposes only, the *Criminal Code* defines "consent" as follows:

**Consent:** The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity;  
or
- e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

### **Other Relevant Terms**

**Acquaintance sexual assault:** Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

**Age of consent for sexual activity:** The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

**Coercion:** In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

**Drug-facilitated sexual assault:** The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

**Stalking:** A form of criminal harassment prohibited by the *Criminal Code* of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear in the victim or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the target's friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media/cyber-stalking; and uttering threats.

**Survivor:** Some who have experienced sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term "victim". We use the term survivor throughout this policy where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. . It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

## POLICY

Sexual assault and sexual violence are unacceptable and will not be tolerated. We are committed to challenging and preventing sexual violence and creating a safe space for everyone in our organization and the College community who has experienced sexual violence. The Student Association of George Brown College is expected to be a safe and positive space where everyone is able to work, learn and express themselves in an environment free from sexual violence.

All reported incidents of sexual violence will be investigated to the best of the organization's ability and in a manner that ensures due process. It is this policy's intention to make individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

We recognize that sexual violence can occur between individuals regardless of sexual orientation, gender, and gender identity or relationship status as articulated in the Ontario *Human Rights Code*. We also recognize that individuals who have experienced sexual violence may experience emotional, academic or other difficulties.

### **We are committed to:**

1. Assisting those who have experienced sexual violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic and other accommodation
2. Ensuring that those who disclose that they have been sexually assaulted are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response
3. Addressing harmful attitudes and behaviours (e.g., adhering to myths of sexual violence) that reinforce that the person who experienced sexual violence is somehow to blame for what happened
4. Treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests
5. Where the Student Association of George Brown College becomes aware of incidents of sexual violence by staff or against staff, which occur on or off the organization or College property, and that pose a risk to the safety of staff or members of the College community, the Student Association shall take all reasonable steps to ensure the safety of our staff and members

6. Ensuring that internal investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police
7. Engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with the Student Association's Human Resources Policy and that ensure fairness and due process
8. Ensuring coordination and communication among the various departments in the College who are most likely to be involved in the response to sexual violence on campus
9. Engaging in public education and prevention activities
10. Providing information to staff about our sexual violence policies and protocols
11. Providing appropriate education and training to staff about responding to the disclosure of sexual violence
12. Contributing to the creation of an atmosphere in which sexual violence is not tolerated
13. Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices

**Reporting and Responding to Sexual Violence:**

1. All staff should immediately report sexual violence incidents they witness or have knowledge of, or where they have reason to believe that sexual violence has occurred or may occur. Staff who have experienced sexual violence are encouraged to come forward to report as soon as they are able to do so
2. Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual violence from occurring

Where the Student Association becomes aware of incidents of sexual violence by staff or against a member of the College community, which occur on or off the Student's Association or College property, and that pose a risk to the safety of members of the College community, the Student Association shall take all reasonable steps to ensure the safety of the organization and the College Community.

**Complaint Process and Investigations:**

3. A complaint of sexual assault or any other kind of sexual violence can be filed under this Policy by staff or any member of the College community

The Student Association will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this Policy. Respondents will be given reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them

**Right to Withdraw a Complaint:**

4. A complainant has the right to withdraw a complaint at any stage of the process. However, the Student Association may continue to act on the issue identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations

**Protection from Reprisals, Retaliation or Threats:**

5. It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:
- Having pursued rights under this Policy or the Ontario *Human Rights Code*
  - Having participated or co-operated in an investigation under this Policy or the Ontario *Human Rights Code*
  - Having been associated with someone who has pursued rights under this Policy or the Ontario *Human Rights Code*

Anyone engaged in such conduct may be subject to sanctions and/or discipline.

**Unsubstantiated or Vexatious Complaints:**

6. If a person, in good faith, discloses or files a sexual violence complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed

Disclosures or complaints that are found following investigation to be frivolous, vexatious or bad faith complaints, that is, made to purposely annoy, embarrass or harm the respondent, may result in sanctions and/or discipline against the complainant

**Confidentiality:**

7. Confidentiality is particularly important to those who have disclosed sexual violence. The confidentiality of all persons involved in a report of sexual violence must be strictly observed. The Student Association does its best to respect the confidentiality of all persons, including the complainant, respondent and witnesses.

However, confidentiality cannot be assured in the following circumstances:

- An individual is at imminent risk of self-harm
- An individual is at imminent risk of harming another; and/or
- There are reasonable grounds to believe that others in the College or wider community may be at risk of harm

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the survivor would not be released to the public

Where the Student Association becomes aware of an allegation of sexual violence by staff or a member of the College community, the Student Association may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with the Student Association's legal obligation and/or its policies to investigate such allegations. In certain cases, College administrators or Campus Security will be informed about the reported incident on a "need to know" and confidential basis, but not necessarily of the identities of the persons involved.

## **NON-COMPLIANCE IMPLICATIONS**

This Policy requires compliance by all staff of the Student Association of George Brown College and members of the George Brown College community. Failure to comply may result in disciplinary actions

## **SUPPORTING DOCUMENTATION**

Protocol under this Policy (Reporting and Responding)  
Resources Internal and External

## **RELATED POLICIES**

The Student Association of George Brown College Prevention of Discrimination and Harassment Policy  
Occupational Environmental Health and Safety Workplace Violence and Harassment Policy  
Human Resources & Codes of Conduct Policies

## **RELATED MATERIALS**

Developing a Response to Sexual Violence: A Resource Guide for Ontario Colleges and Universities

1. [www.women.gov.on.ca/owd/docs/campus\\_guide.pdf](http://www.women.gov.on.ca/owd/docs/campus_guide.pdf)

## PROCEDURES REPORTING AND RESPONDING

### Action

#### **IF YOU HAVE EXPERIENCED SEXUAL VIOLENCE**

Go to a Safe Place

- Find a trusted friend or employee or speak with a Counsellor
- Call the Toronto Rape Crisis Centre/ Multicultural Women Against Rape 416-597-8800
- Go to or Call the Sexual Assault/ Domestic Violence Care Centre Women's College Hospital- 416-323-6040

#### **How Will the Student Association Respond to a Report of Sexual Violence?**

Where a complaint of sexual violence has been reported to the Student Association, the Student Association will exercise care to protect and respect the rights of both the complainant and the respondent. The Student Association understands that individuals who have experienced sexual violence may wish to control whether and how their experience will be dealt with by the police and/or the Student Association. In most circumstances, the person will retain this control. However, in certain circumstances, the Student Association may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even without the person's consent, if the Student Association believes that the safety of staff or other members of the College community is at risk. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

**Anyone who has experienced sexual violence has a right to:**

- Be treated with dignity and respect
- Be believed
- Be informed about on- and off-campus services and resources
- Decide whether or not to access available services and to choose those services they feel will be most beneficial
- Decide whether to report to campus security and/or local police
- Have a safety plan
- Have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s)

## THE STUDENT ASSOCIATION'S PROCEDURES ON SEXUAL ASSAULT & SEXUAL VIOLENCE

As staff or a member of George Brown College you may be a first responder to a disclosure of sexual assault or sexual violence. If you require support during this time you may speak with a Manager or contact one of the College's Human Rights Advisors who will provide guidance and information you may need. As a first responder you should not go beyond your own comfort level or expertise when responding to a disclosure. It is important to be supportive while referring survivors to the right person who can provide the help they need. You also need to know that receiving a disclosure can, itself, be traumatic and that supports are available to help you cope.

As a first responder, if an employee or a student reports to you an incident of sexual assault or sexual violence, you will immediately assess the situation, and if based on your assessment the employee or student is in imminent danger, you will report the matter immediately to management. Security services will be contacted immediately to provide an immediate response to safety concerns.

If a student is involved on Campus and outside of the Student association spaces, security services will ensure the **student is escorted to a Human Rights advisor at the campus the report was issued at.**

The Human right Advisor will be the complaint manager for the student. They will work with the student to provide:

- Immediate appropriate assistance and support
- Ensure the survivor has access to a counsellor in student services
- Explain the sexual assault/ sexual violence policy and protocol to the student and provide them with a copy of all relevant materials
- Work with departments within the college to ensure the student is not impacted academically by the incident
- Work with security staff to set up a safety plan for the survivor
- Ask the survivor if she or he wishes to report the incident to the police and if the student wishes to do this contact the Metro Police to arrange for them to come to campus to take the report, the Human Rights Advisor and or Security will be with the student when they meet with the police

If the survivor wishes to file an internal complaint management will provide the following assistance :

- Explain the options available for dealing with the complaint; informal, mediation or formal
- Ensure the survivor knows they have a right to have a support person with them throughout any process that may develop to address their complaint
- Explain how their complaint will be shared with security and other parties on a need to know basis only. As an organization, the Student Association will attempt at all times to limit knowledge of the complaint to only those in the organization or at the college who need to know in order to process the complaint or to assist in the investigation
- If the survivor decides to issue a formal written complaint the management will assist in preparing and filing their internal complaint
- Timeline for investigation is 30 working days
- Ensure the complainant is kept up to date on the progress of their complaint
- Ensure the complainant has a safety plan and knows who to call if they are approached by the alleged perpetrator
- Work with the employee or student's academic department to put in place any interim measures necessary to alleviate pressure academically or emotionally on the student or employee
- Ensure that the internal complaint investigation and adjudication are in accordance with Student Association's Policies and Procedures and that ensure fairness and due process and timeliness
- **information and policies, answer questions the**
- The Manager investigating the complaint will provide the respondent with a summary of the complaint, require that they provide a written response to the complaint and provide the complainant with a copy of the response within 7 working days
- Upon completion of that investigation will inform the employee of the outcome of the investigation. Recommend any disciplinary actions (as per the Human Resources Policy)
- *This sexual assault and sexual violence procedure coincides with the College's Prevention of Discrimination and Harassment Policy-*  
<http://www.georgebrown.ca/diversity/>

### **What to Do if You Witnessed Sexual Violence**

Report it immediately to management of the Student Association of George Brown College. If you are unable to reach manager and wish to speak to someone directly, please call Security ex: 8000.

### **What to Do if Someone Discloses Allegations of Sexual Violence**

A person may choose to confide in someone about an act of sexual violence. An individual who has experienced sexual violence may also disclose to staff or faculty members when seeking support and/or academic accommodation. A supportive response involves:

- Listening without judgement and accepting the disclosure as true
- Communicating that sexual violence is never the responsibility of the survivor
- Helping the individual identify and/or access available on- or off-campus services, including emergency medical care and counselling
- Respecting the individual's right to choose the services they feel are most appropriate and to decide whether to report to the police and/or an Advisor at the Diversity Equity & Human Rights
- Recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited
- Respecting the individual's choices as to what and how much they disclose about their experience
- Making every effort to respect confidentiality and anonymity

### **Communicating with Individuals who have Experienced Sexual Violence**

Sensitive and timely communication with individuals who have experienced sexual violence and their family members (when an individual consents to this communication) is a central part of the Student Association's first response to sexual violence.

To facilitate communication the Student Association will:

- Ensure that designated employees in the organization who are knowledgeable about sexual violence, or will seek support from the College or external agencies, to work with the individual to address the complaint
- Ensure designated employees respond in a prompt, compassionate, and personalized fashion
- Ensure that the person who has experienced sexual violence and the respondent are provided with reasonable updates about the status of the investigation of the incident when such investigations are undertaken.

### **RESOURCES**

Sexual Assault Centers in Ontario

Sexual Assault Centres (Ontario)